

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 07, 2019
86th Legislature, Number 60
The House convenes at 10 a.m.
Part Two

The bills and joint resolutions analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

The House also will consider a Local, Consent, and Resolutions Calendar.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.



Dwayne Bohac
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, May 07, 2019

86th Legislature, Number 60

Part 2

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SUBJECT: Establishing sex trafficking prevention and treatment programs

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — S. Thompson, Frank, Guerra, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

3 absent — Wray, Allison, Coleman

WITNESSES: For — Jessica Anderson, Houston Police Department; Lisa Michelle, No Strings Attached Outreach; (*Registered, but did not testify:* Drucilla Tigner, ACLU of Texas; Jason Sabo, Children at Risk; Claire Bocchini, Doctors for Change; Will Francis, National Association of Social Workers-Texas Chapter; Chris Kaiser, Texas Association Against Sexual Assault; Krista Del Gallo, Texas Council on Family Violence; Reginald Smith, Texas Criminal Justice Coalition; Monty Wynn, Texas Municipal League; Lee Nichols, TexProtects; Piper Nelson, The SAFE Alliance; Knox Kimberly, Upbring; and 18 individuals)

Against — None

On — (*Registered, but did not testify:* Bobby Pounds, Comptroller of Public Accounts; Aimee Snoddy, Office of the Governor-Public Safety Office; Andrea Sparks, Office of the Governor; Steve Glazier and Elizabeth Newlin, UT Health Houston)

BACKGROUND: Some observers have noted that while there are state-level initiatives to address human trafficking, many municipalities lack financial resources to implement programs and strategies in their respective communities to adequately address the prevalence of sex trafficking.

DIGEST: HB 1113 would establish a treatment program for victims of child sex trafficking and create sex trafficking prevention grant programs for municipalities and local law enforcement agencies.

Treatment program. The bill would require the Health and Human Services Commission (HHSC), in collaboration with a designated health-related institution of higher education and the Child Sex Trafficking Prevention Unit, to establish a program to improve the quality and accessibility of care for victims of child sex trafficking.

HHSC would designate a health-related institution of higher education to operate the program. This institution would be charged with improving the quality and accessibility of care by:

- dedicating units at the institution to provide inpatient and outpatient care for victims of child sex trafficking;
- creating research and workforce expansion opportunities related to treatment of child sex trafficking victims; and
- assisting other health-related institutions of higher education establish similar programs.

In addition to money appropriated by the Legislature, the designated institution could accept gifts, grants, and donations from any public or private person to carry out the program's purpose.

Municipal matching grant program. The bill would require HHSC to administer a matching grant program that would award grants to provide initial money for the establishment of municipal sex trafficking prevention programs.

Municipalities could apply to the commission for a matching grant. To qualify for a grant, an applicant would have to develop a media campaign and appoint a municipal employee to oversee the program and would be required to provide proof that the applicant could secure municipal money in an amount at least equal to the awarded grant amount.

An applicant also would have to collaborate with a local institution of higher education to create and submit a needs assessment outlining:

- the prevalence of sex trafficking crimes in the municipality;
- strategies for reducing the number of sex trafficking crimes; and

- the program's need for state funding to supplement the municipal funding.

HHSC would award matching grants to each municipality that demonstrated the most effective strategies for reducing the number of sex trafficking crimes and the greatest need for state funding.

In addition to money appropriated by the Legislature, HHSC could solicit and accept gifts, grants, and donations from any source to administer and finance the matching grant program.

Law enforcement grant program. The bill would require the Office of the Governor, in collaboration with the Child Sex Trafficking Prevention Unit, to administer a grant program that would award grants to local law enforcement agencies to train local law enforcement officers to recognize signs of sex trafficking. Law enforcement agencies could seek grants by applying to the governor's office in the form and manner prescribed by the office.

In addition to money appropriated by the Legislature, the governor's office could solicit and accept gifts, grants, and donations from any source to administer and finance the grant program.

Other provisions. The bill would require the Texas Comptroller of Public Accounts to bar a vendor from participating in state contracts if the vendor took action that directly supported or promoted human trafficking.

As soon as practicable after the bill's effective date, the bill would require HHSC and the governor's office to adopt rules to implement the bill's provisions.

The bill would take effect September 1, 2019, and would apply only to a contract entered into on or after that date.

SUBJECT: Requiring drivers to slow down when passing certain service vehicles

COMMITTEE: Transportation — favorable, without amendment

VOTE: 13 ayes — Canales, Landgraf, Bernal, Y. Davis, Goldman, Hefner,
Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

0 nays

WITNESSES: For — Tom Coad, AEP Texas; Rudy Garza, CPS Energy; (*Registered, but did not testify*: Karen Rove, AGC of Texas Highway Heavy; Erika Akpan, Association of Electric Companies of Texas; Gary Pedigo, Brotherhood of Locomotive Engineers and Trainmen; June Deadrick, CenterPoint Energy; Christine Wright, City of San Antonio; Chance Sampson, Entergy Texas, Inc.; Tom Oney, Lower Colorado River Authority; Evan Autry, Texas Electric Cooperatives; JJ Rocha, Texas Municipal League; Rene Lara, Texas AFL-CIO)

Against — (*Registered, but did not testify*: Terri Hall, Texas TURF and Texans for Toll-Free Highways; Don Dixon; Stephanie Ingersoll)

BACKGROUND: Transportation Code sec. 545.157 requires a vehicle operator approaching a stationary authorized emergency vehicle or certain other vehicles to vacate the lane closest to the vehicle and slow to a speed at least 20 miles per hour less than the posted speed limit.

A violation of this requirement is a misdemeanor punishable by a fine of between \$1 and \$200, except that it is a misdemeanor punishable by a fine of \$500 if the violation results in property damage. The offense is class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if it results in bodily injury.

DIGEST: HB 1770 would add service vehicles used in the maintenance of an electrical power line and using visual signals to the list of vehicles for which an approaching driver would be required to vacate the closest lane and slow to a speed at least 20 miles per hour less than the posted speed limit.

The bill would take effect September 1, 2019.

SUBJECT: Making certain licensees' email addresses subject to disclosure

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Phelan, Hernandez, Guerra, Harless, Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

2 absent — Deshotel, Holland

WITNESSES: For — (*Registered, but did not testify*: Russell Mullins, Alterity Solutions, Inc.; Todd Kercheval, Texas Pest Control Association; Joe Buser, Traveling Coaches, Inc.; Russell Hayter; Alexie Swirsky)

Against — None

BACKGROUND: Government Code ch. 552, the Public Information Act, requires governmental bodies to disclose information to the public upon request, unless that information is excepted from disclosure.

Under sec. 552.137, an email address of a member of the public that is provided for the purpose of communicating with a governmental body is confidential and not subject to disclosure. Sec. 552.137(c) lists email addresses to which the confidentiality does not apply.

Some have noted that email addresses provided by applicants for or holders of occupational licenses issued by certain state agencies are unable to be obtained through a public information request.

DIGEST: CSHB 3631 would make an email address provided to a governmental body by an applicant for or holder of an occupational license issued by the Department of Agriculture or the Texas Department of Licensing and Regulation subject to disclosure under the Public Information Act.

The bill would apply only to a request for information received on or after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Expanding Medicaid fraud offense to include other health care programs

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: *After recommitted:*
9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: *April 1 public hearing:*
For — (*Registered, but did not testify:* Vincent Giardino, Tarrant County Criminal District Attorney's Office; Elise Richardson, Texas Ambulance Association)

Against — None

On — Carolyn Denero, Office of the Attorney General; (*Registered, but did not testify:* Brian Johnson, Office of the Attorney General)

BACKGROUND: Penal Code sec. 35A establishes the crime of Medicaid fraud, which involves false statements or misrepresenting facts to receive a benefit under the Medicaid program and other actions relating to the program.

Some have suggested that the statute is too narrow and should apply to fraud committed against other state or federal health care programs.

DIGEST: CSHB 2894 would revise the offense of Medicaid fraud to include actions involving other health care programs in addition to Medicaid. The offense would be renamed health care fraud.

The bill would revise many of the definitions relating to the offense, generally to broaden them to apply to health care programs rather than only to Medicaid. The bill would add provisions defining a health care program as a program funded by the state, the federal government, or both and designed to provide health care services to recipients, including a program administered in whole or in part through a managed care delivery

model.

The bill would take effect September 1, 2019, and would apply to offenses committed on or after that date.

NOTES:

CSHB 2894 was reported favorably without amendment from the House Committee on Criminal Jurisprudence on April 8, placed on the General State Calendar for April 24, recommitted to committee, and reported favorably as substituted on April 25.

SUBJECT: Increasing cap on claims under jurisdiction of county, justice courts

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Smith, White
1 nay — Neave

WITNESSES: For — John Barton, Justices of the Peace and Constables Association of Texas; Lee Parsley, Texans for Lawsuit Reform; (*Registered, but did not testify*: Tom Sellers, ConocoPhillips; Cary Roberts, County and District Clerks' Association of Texas; Charles Reed, Dallas County Commissioners Court; Nicholas Chu, Bobby Gutierrez, and Lynn Holt, Justice of the Peace and Constables Association of Texas; Kelsey Bernstein, Texas Association of Counties; George Christian, Texas Civil Justice League; Sasha Moreno; Katina Whitfield)
Against — None
On — Russell Schaffner, Tarrant County; Bronson Tucker, Texas Justice Court Training Center

BACKGROUND: Government Code secs. 26.042(a) and 27.031(a) establish that county courts and justice courts have concurrent jurisdiction in civil cases with disputes that are more than \$200 but do not exceed \$10,000.
Some have proposed increasing the cap on current jurisdiction to allow greater access to justice courts and raising filing fees in these courts to help them meet their needs.

DIGEST: HB 1380 would increase from \$10,000 to \$20,000 the cap on the disputed claims amounts that would be under the jurisdiction of both county courts and justice courts.
The bill would increase the filing fee in justice courts from \$25 to \$50 and would eliminate references to small claims courts.

The bill would take effect September 1, 2019, and would apply to causes of action filed on or after that date.

SUBJECT: Delaying implementation of public school accountability rules

COMMITTEE: Public Education — favorable, without amendment

VOTE: 13 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

WITNESSES: For — Elizabeth Cross, Texas Charter Schools Association; (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter Sierra Club; Pedro Martinez, San Antonio ISD; Barry Haenisch, Texas Association of Community Schools; Mike Meroney, Texas Association of Manufacturers; Grover Campbell, Texas Association of School Boards; Paige Williams, Texas Classroom Teachers Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Dee Carney, Texas School Alliance; Lisa Dawn-Fisher, Texas State Teachers Association; Daphne Hoffacker)

Against — None

On — (*Registered, but did not testify*: Eric Marin, Texas Education Agency)

BACKGROUND: Interested parties have noted that delaying the implementation of rules affecting public school accountability would give schools time to prepare for the changes.

DIGEST: HB 2013 would permit the commissioner of education to delay implementation of a rule adopted by the commissioner or the Texas Education Agency (TEA) that affected methods or procedures for public school accountability until the second school year after the school year the rule was adopted unless the commissioner or the TEA was required by law to adopt and implement such a rule in a shorter period.

The bill would apply only to a rule adopted on or after the effective date of the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Property tax exemption for owners leasing property to a charter school

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Burrows, Guillen, Bohac, Martinez Fischer, Murphy, Noble, E. Rodriguez, Shaheen

0 nays

3 absent — Cole, Sanford, Wray

WITNESSES: For — Amanda List, ResponsiveEd; Thomas Fuller, Texas Charter Schools Association; (*Registered, but did not testify*: Julie Linn, Great Hearts Texas; Elizabeth Cross, Texas Charter Schools Association; Dustin Cox; Tom Sage)

Against — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Charles Luke, Pastors for Texas Children; Dwight Harris, Texas American Federation of Teachers; Grover Campbell, Texas Association of School Boards; Mark Terry, Texas Elementary Principals and Supervisors Association; Alexis Tatum, Travis County Commissioners Court; Bill Kelberlau)

DIGEST: CSHB 388 would entitle a property owner to an exemption from taxation of the portion of real property that the person owned and leased to an open-enrollment charter school under certain conditions.

A person would qualify for the exemption if the portion of the real property that was leased to the school was used exclusively by the school for the operation, administration, or performance of other educational functions and reasonably necessary for that purpose.

The owner also would have to certify by affidavit to the school either that:

- if the lease required the school to pay the property taxes for the leased portion of the property as part of the total consideration paid to the owner, the owner would provide a monthly or annual credit

in the amount of the tax exemption; or

- if the lease required the school to pay the property taxes directly to the collector for the applicable taxing unit or to the owner or the property manager separately from the rent payment, the school would no longer be required to pay those taxes and the rent would not be affected unless a term of the lease specifically provided for a change in the amount of rent.

A property owner required to provide an affidavit to a charter school that paid the taxes for the leased property as part of the total consideration paid to the owner also would have to:

- provide the school with a disclosure document stating the amount by which the taxes on the leased property were reduced as a result of the exemption and the method the owner would implement to ensure that the lease fully reflected the total amount of that reduction; and
- reduce the total consideration for the lease through a monthly or annual credit to reflect the amount of the tax reduction that resulted from the exception.

The bill could not be construed as invalidating a property tax exemption granted to an open-enrollment charter school before January 1, 2020, for property purchased or leased with state funds.

Tax Code sec. 25.07 regarding leasehold and other possessory interests in exempt property would not apply to a leasehold interest in real property for which the owner received a property tax exemption under the bill.

The bill would apply to property taxes imposed for a tax year beginning on or after the bill's effective date.

The bill would take effect January 1, 2020, but only if voters approved a proposed constitutional amendment authorizing the Legislature to exempt from ad valorem taxation real property leased to certain schools.

SUPPORTERS
SAY:

CSHB 388 would provide charter schools that operated in leased facilities with more money to use in the classroom by exempting them from having

to pay property taxes. School districts, private nonprofit schools, and charter schools that own their facilities are exempt from property taxes, and the bill would level the playing field for charter schools that leased their facilities. The bill would allow charter schools to benefit from the exemption whether they paid their property taxes as a portion of their rent or directly to local taxing entities.

Unlike school districts, charter schools are unable to levy taxes to fund school facilities. Most charter schools start out in leased facilities and may later be able to afford their own buildings. The bill would help newer charter schools by preventing the needless expenditure of operational funds on local property taxes. While some have raised concerns about the cost of providing this tax break to charter schools operating in leased facilities, it is only fair to treat all public schools the same.

As the Legislature is working to increase funding for all public schools, the bill would ensure that charter schools could use their funding for teacher pay and instructional materials rather than on property taxes.

**OPPONENTS
SAY:**

CSHB 388 would result in school districts and other local taxing entities subsidizing privately owned charter management organizations by making property leased by charter schools exempt from property taxes. The Legislative Budget Board estimates the bill would cost the Foundation School Fund \$16.4 million for the fiscal 2022-23 biennium.

State funding to charters has increased greatly over the past decade despite the fact that school districts still educate the vast majority of Texas students. The bill would add to the growing costs of running two parallel school systems.

Property tax exemptions could result in an increased tax burden on other property owners. Instead of creating new tax exemptions, the Legislature should focus its efforts on reducing the aggregate property tax burden.

NOTES:

According to the Legislative Budget Board, the bill would have a positive impact of \$192,000 to general revenue related funds through fiscal 2020-21, and the negative impact of about \$16.4 million for fiscal 2022-23.

HB 388 is the enabling legislation for HJR 31 by Murphy, the proposed constitutional amendment that would authorize the Legislature to exempt from ad valorem taxation real property leased to certain schools. HJR 31 was reported favorably by the Ways and Means Committee on April 24.

SUBJECT: Requiring a report from TDEM on building trade services after a disaster

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — T. King, Geren, Guillen, Harless, Hernandez, Kuempel, Paddie, S. Thompson

0 nays

3 absent — Goldman, Herrero, K. King

WITNESSES: For — (*Registered, but did not testify*: Corbin Barnsdale, AGC-Texas Building Branch; Alicia Dover, Associated Plumbing-Heating-Cooling Contractors of Texas; Clifford Sparks, City of Dallas; Cyrus Reed, Lone Star Chapter Sierra Club; Leonard Aguilar, Southwest Pipe Trades Association; Kyle Jackson, Texas Apartment Association; Ronnie Smitherman, Texas Building Trades Council)

Against — None

On — (*Registered, but did not testify*: Mike Arismendez, Texas Department of Licensing and Regulation)

BACKGROUND: Some have noted that after natural disasters it can be difficult for property owners to find qualified tradespeople to rebuild damaged homes and that some property owners in such situations have been taken advantage of by fraudulent contractors.

DIGEST: HB 1873 would require the Texas Division of Emergency Management by November 1, 2020, to submit a report to the Legislature on improving the oversight, accountability, and availability of building trade services after a disaster.

The report would include:

- strategies to increase the availability of tradespeople following a

disaster;

- approaches to increase prosecutions of alleged fraud related to building trade services offered following a disaster; and
- methods to encourage performance bond requirements in contracts for trade services to be performed following a disaster.

The division would be required to consult with appropriate state entities, including the Texas A&M AgriLife Extension Service and the Texas Department of Licensing and Regulation, local governments, trade associations, and law enforcement groups in preparing the report.

The bill's provisions would expire January 1, 2021.

The bill would take effect September 1, 2019.

SUBJECT: Capping penalties relating to motor fuel quality and metering devices

COMMITTEE: International Relations and Economic Development — committee substitute recommended

VOTE: 8 ayes — Anchia, Frullo, Blanco, Cain, Larson, Perez, Raney, Romero

0 nays

1 absent — Metcalf

WITNESSES: For — Paul Hardin, Texas Food and Fuel Association; (*Registered, but did not testify*: Lance Davis, Kwik Chek; Jim Sheer, Texas Retailers Association)

Against — Michael Skrobarcek, Guadalupe County Precinct 3 Constable; Sidney Miller; (*Registered, but did not testify*: Todd Smith, Texas Conservative Tea Party Coalition; Sid Miller, Texas Department of Agriculture; Fred Funderburgh; Stan Kitzman; Donald A Loucks; Chris Parachini)

On — Jessica Escobar, Texas Department of Agriculture

BACKGROUND: Agriculture Code ch. 13 provides for the regulation of motor fuel metering devices and establishes civil and administrative penalties for offenses relating to the registration of metering devices, use of an inaccurate device, and false representation of a commodity quantity.

Agriculture Code ch. 17 provides for the regulation of certain fuel mixtures and establishes civil and administrative penalties for offenses relating to quality standards of motor fuel mixtures, testing, inaccurate fuel ratings, and documentation of fuel deliveries and sales.

DIGEST: CSHB 2366 would cap or reduce certain fees relating to the regulation of motor fuel metering devices and motor fuel quality, restrict how the Texas Department of Agriculture (TDA) used certain fee revenues, and amend the complaints process relating to metering devices.

Penalties. The bill would lower the cap on the administrative penalty for a violation of certain laws, rules, or orders relating to the sale and regulation of fuel mixtures from \$5,000 to \$2,500.

The bill also would cap the total civil penalty for a continuous violation of statutory provisions relating to motor fuel metering devices at \$2,500, if the violation related to one or more devices.

The bill would reduce from \$10,000 to \$2,500 the maximum civil penalty for a dealer, distributor, supplier, wholesaler, or jobber who violated statutory provisions relating to certain notice and documentation requirements regarding motor fuel mixtures and ratings.

Complaints. The bill would require a complaint to TDA regarding motor fuel metering devices or fuel quality to include a proof of purchase for the transaction that led to the complaint. TDA would be required to notify the dealer by email within 24 hours of receiving the complaint and to identify the specific motor fuel metering device or pump that led to the complaint.

Testing. The bill would limit the authority of an authorized representative of the commissioner of agriculture to test motor fuel quality, allowing testing only in response to a complaint about the fuel.

The bill would require TDA to pay all costs associated with motor fuel quality testing, including sampling costs, transportation costs, and shipping costs, using fees collected for such purposes.

TDA would be required to contract with at least five laboratories in Texas to conduct such testing. When adopting rules relating to fuel testing, the commissioner would be required to consider the distance to the nearest testing laboratory and the octane of the fuel.

The bill would prohibit TDA from testing motor fuel based on a complaint about fuel with an octane rating less than 88 under ASTM standards.

Tags. The bill would establish that it was not an offense to remove or obliterate a registration tag on a motor fuel metering device if the person

who removed or obliterated the tag owned or operated the metering device and did not intentionally remove or obliterate the tag. The bill would require TDA to replace such tags.

Other provisions. The bill would:

- prohibit TDA from increasing a dealer's fee for motor fuel quality testing by more than 10 percent per biennium;
- extend the registration period for a motor fuel metering device from one year to two years, unless a different period of more than two years was established by department rule;
- prohibit TDA from issuing a stop-sale order for a violation of motor fuel quality standards without having laboratory results confirming that violation; and
- restrict the use of registration and inspection fees for motor fuel metering devices to the administration and enforcement of motor fuel metering device inspections.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSHB 2366 would ensure that the Texas Department of Agriculture (TDA) applied clear and reasonable enforcement methods for the motor fuel metering and fuel quality programs that it administers.

The bill would address concerns with TDA's implementation of HB 2174 by Darby, enacted by the 85th Legislature, which aimed to make the inspection process more efficient. The bill would ensure TDA's enforcement practices were aligned with legislative intent.

The fiscal note for the bill highlights that the department currently takes in too much in fee revenue for the duties that it performs. The fuel industry has an excellent record of compliance, and less than 10 percent of consumer complaints result in corrective action against a dealer.

By requiring TDA to notify a dealer within 24 hours of receiving a complaint, the bill would allow dealers to know sooner that their

equipment could be broken. The 24-hour notice requirement would provide better consumer protection, giving dealers the ability to take corrective action as soon as possible, rather than waiting until the fuel in question was gone.

TDA previously has used an out-of-state contractor to test fuel samples. The bill would require in-state testing of fuel quality because fuel samples degrade with time and a quick turnaround would ensure that fuel did not degrade in the time that it took to pull a sample and send it to a laboratory for analysis. Using multiple laboratories in different regions of the state would better ensure that testing results were accurate.

OPPONENTS
SAY:

CSHB 2366 would make it more difficult for consumers to file a complaint, more difficult for TDA to act on a complaint, and more expensive for the state to administer its regulatory program.

By requiring TDA to send a notice by email to dealers within 24 hours, the bill could result in tipping off bad actors that an inspection was coming, allowing them to reset a pump before inspectors arrived.

Requiring TDA to contract with five or more laboratories would drive up cost for testing fuel quality samples, losing the current efficiency of scale.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$874,000 to general revenue related funds through fiscal 2020-21.

SUBJECT: Removing the requirement that public defenders report clients' finances

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Pacheco

0 nays

1 present not voting — Murr

WITNESSES: For — Alex Bunin, Harris County Public Defender's Office; (*Registered, but did not testify*: Pete Gallego, Bexar County Criminal District Attorney's Office; Ender Reed, Harris County Commissioners Court; Brett Merfish, Texas Appleseed; Emily Gerrick, Texas Fair Defense Project; Darwin Hamilton)

Against — None

On — (*Registered, but did not testify*: Wesley Shackelford, Texas Indigent Defense Commission)

BACKGROUND: Code of Criminal Procedure art. 26.044(1) allows a public defender's office to investigate the financial condition of any person the office is appointed to represent. The office must report the results of the investigation to the appointing judge, and the judge may hold a hearing to determine if the person is indigent and entitled to representation by a public defender.

It has been suggested that requiring attorneys in public defender offices to report their client's financial condition to the appointing judge violates attorney-client privilege.

DIGEST: HB 2131 would remove the requirement that a public defender's office report to the appointing judge the results of its investigation into the financial condition of a person the office was appointed to represent.

The bill also would remove the authority of an appointing judge to hold a hearing to determine if the person was indigent.

The bill would take effect September 1, 2019.

SUBJECT: Adopting a statewide code for swimming pools and spas

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 8 ayes — Button, J. González, Goodwin, E. Johnson, Middleton, Morales, Patterson, Swanson

1 nay — Shaheen

WITNESSES: For — Brett Abbott, Peter Batterton, Association of Pool and Spa Professionals; Bill E. Irvin, Texas Pool and Spa Coalition; (*Registered, but did not testify*: Steve Koebele, Aquatic Professionals Education Council; Mike Church, Cody Pools, Inc.; Jake Posey, Independent Pool and Spa Service Association (IPSSA); Kelly Sadler, International Code Council; David King)

Against — None

On — (*Registered, but did not testify*: Stephen Pahl, Department of State Health Services)

DIGEST: CSHB 2858 would adopt the International Swimming Pool and Spa Code, as it existed on May 1, 2019, as the municipal swimming pool and spa code in the state.

The International Swimming Pool and Spa Code would apply to all construction, alteration, remodeling, enlargement, and repair of swimming pools and spas, including swimming pool enclosures, in any municipality that elected to regulate pools or spas.

The bill would allow a municipality to establish procedures for the adoption of local amendments to the code and for the administration and enforcement of the code.

The bill would allow a municipality to review and adopt amendments made by the International Code Council to the International Swimming Pool and Spa Code after May 1, 2019.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSHB 2858 would implement a common statewide code standard for public and residential swimming pools and spas. The current patchwork of regulations across the state makes it difficult for businesses to maintain common protocols and stock supplies across different jurisdictions. A statewide code would create efficiencies and promote safety in pools and spas across Texas.

The bill would allow municipalities to amend the code to address local concerns and would not require them to regulate pools and spas at all, so it would not infringe on local control.

**OPPONENTS
SAY:**

CSHB 2858 would adopt a one-size-fits-all approach to pool and spa code that would not be a good fit for a state as large and diverse as Texas.

SUBJECT: Establishing requirements for escort flag vehicles; creating an offense

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Canales, Bernal, Y. Davis, Goldman, Krause, Leman,
Martinez, Ortega, Raney, Thierry, E. Thompson

1 nay — Hefner

1 absent — Landgraf

WITNESSES: For — (*Registered, but did not testify*: D.J. Pendleton, Texas
Manufactured Housing Association; Dana Moore, Texas Trucking
Association)

Against — (*Registered, but did not testify*: Adam Haynes, Conference of
Urban Counties; Aimee Bertrand, Harris County Commissioners Court)

On — (*Registered, but did not testify*: Jimmy Archer, Texas Department
of Motor Vehicles)

DIGEST: CSHB 2620 would establish requirements for permits for escort flag
vehicles and for the loading and operation of oversize or overweight
vehicles. The bill also would create an offense for violating certain permit
requirements.

Escort flag vehicles. The bill would define an "escort flag vehicle" as a
vehicle that preceded or followed an oversize or overweight vehicle
operating under a permit issued by the Texas Department of Motor
Vehicles (TxDMV) for the purpose of facilitating the safe movement of
the vehicle over roads.

An "escort flagger" would be defined as a person who:

- had successfully completed a training program in traffic direction
established by the Texas Commission on Law Enforcement; and
- in accordance with a permit issued by the department, operated an

escort flag vehicle or directed and controlled the flow of traffic using a hand signaling device or an automated flagger assistance device.

Escort flaggers would be exempt from compliance with traffic-control devices. Drivers would be required to obey an escort flagger who was directing or controlling the flow of traffic in accordance with a permit issued by TxDMV for the movement of an oversize or overweight vehicle.

Permits. The bill would authorize TxDMV to deny an application for a permit for the operation of an overweight or oversize vehicle submitted by an applicant who:

- was the subject of an out-of-service order issued by the Federal Motor Carrier Safety Administration; or
- the Department of Public Safety determined had either an unsatisfactory federal safety rating or multiple violations of commercial vehicle safety standards.

Denials would not be required to be preceded by notice or an opportunity for hearing, but applicants could appeal a denial by filing an appeal within 26 days after it was issued.

Permit requirements. Permits would have to be carried in the vehicle operated under the permit. If the person operating or moving on a public highway a vehicle with a permit issued by TxDMV for an oversize or overweight vehicle was not the person named on the permit or an employee of that person, the person operating the vehicle would commit a class C misdemeanor offense (maximum fine of \$500).

An exception to the offense would occur if:

- the vehicle being operated or moved was a combination of a tow truck and a disabled, abandoned, or accident-damaged vehicle or vehicle combination; and
- the tow truck was towing the other vehicle or vehicle combination directly to the nearest terminal, vehicle storage facility, or authorized place of repair.

TxDMV could require a person operating under a permit for an oversize or overweight vehicle to use one or more escort flag vehicles and escort flaggers if required by the Texas Department of Transportation (TxDOT) or for the safe movement over roads.

A county or municipality would be prohibited from requiring the use of an escort flag vehicle or any other kind of escort for the movement of a manufactured house that was in addition to the requirements outlined by the bill.

Permit fees. The bill would require 10 percent of the fee collected for permits issued by TxDMV for oversize or overweight vehicles to be deposited to the credit of the Texas Department of Motor Vehicles fund, with the remaining fee distribution adjusted proportionately, if needed. This would apply only to a permit authorized on or after September 1, 2019. It would not apply if a statute concerning permit fees for oversize or overweight vehicles expressly required a different amount to be deposited into the fund.

The comptroller would be required to send any amounts due to a county or municipality from fees collected for permits for oversize or overweight vehicles at least once each fiscal year. The amount due would have to be sent to the county treasurer or applicable office for deposit to the credit of the county road and bridge fund. Money due to municipalities would have to be sent to the office performing the function of the treasurer and could be used by the municipality only to fund commercial motor vehicle enforcement programs, road and bridge maintenance, or infrastructure projects.

Shipment requirements. The bill would specify that, on the written request of the person transporting a shipment, a shipper would be required to certify that the information contained on the certificate of weight was accurate and to deliver the certificate of weight to the person transporting the shipment.

In addition, the bill would require a person transporting a shipment to provide the department with a copy of the certificate of weight before the

issuance of an overweight permit if the combined weight of the vehicle or vehicles and load was more than 200,000 pounds. Loading a shipment larger than a vehicle's height, width, or length limitations would be prohibited.

The bill would authorize TxDMV to investigate and impose administrative penalties on a shipper who did not provide a shipper's certificate of weight.

Repealed provisions. The bill would repeal requirements mandating that the comptroller, at least once each fiscal year, send the amount due to each county for fees related to permits for ready-mixed concrete trucks, or for permits for vehicles transporting timber or fluid milk.

The bill also would repeal the requirement that TxDMV provide for issuing a permit for the operation of an oversize or overweight vehicle by telephone.

The bill would repeal the following provisions regarding permits for vehicles transporting fluid milk:

- a provision authorizing the operation of a truck-tractor and semitrailer combination only on highways and roads approved by TxDOT; and
- a provision prohibiting the operation of a truck-tractor and semitrailer combination on a county road or bridge for which a maximum weight and load limit was established and posted.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSHB 2620 would codify recommendations made by the Texas Department of Motor Vehicles and would reduce strain on police resources by enabling escort flaggers to direct and control traffic. This would enable an oversize or overweight vehicle to use roads safely.

Escort flaggers would receive the same traffic control training as police officers, which would prevent local police departments from having to allocate resources to short periods of traffic interruption.

The bill specifies that any allocation of permit fees to the Texas Department of Motor Vehicles fund could be set for a specific permit, which would allow counties and municipalities to keep a potentially larger portion of total fees.

**OPPONENTS
SAY:**

CSHB 2620 would place a strain on local governments by setting the default allocation of permit fees for oversize or overweight vehicles to the Texas Department of Motor Vehicles fund at 10 percent. Counties and municipalities rely on permit fees to pay for repairs to roads and bridges damaged by overweight or oversized vehicles. This default allocation would only increase their share of that burden.

SUBJECT: Expanding ability to file a motion to correct a property tax appraisal roll

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy,
Noble, E. Rodriguez, Shaheen

0 nays

2 absent — Sanford, Wray

WITNESSES: For — Ray Head, Texas Association of Property Tax Professionals;
Joseph Harrison; (*Registered, but did not testify*: Galt Graydon, Citizens
for Appraisal Reform; Matt Grabner, Ryan, LLC; Julia Parenteau, Texas
Realtors)

Against — Alvin Lankford, Texas Association of Appraisal Districts;
(*Registered, but did not testify*: Grover Campbell, Texas Association of
School Boards; Monty Wynn, Texas Municipal League)

BACKGROUND: Tax Code sec. 25.25 generally prohibits an appraisal roll, which contains
the appraisal records of an appraisal district, from being changed, with
certain exceptions. Under sec. 25.25(d), at any time prior to the taxes
becoming delinquent, a property owner or the chief appraiser may file a
motion with the appraisal review board to change the roll to correct an
error that resulted in an incorrect appraisal value for the owner's property.
The error may not be corrected unless it resulted in an appraised value that
exceeded the correct value by more than one-third. If the roll is changed,
the property owner must pay to each taxing unit a late-correction penalty
of 10 percent of the amount of taxes as calculated.

DIGEST: HB 2159 would expand the basis on which a property owner or the chief
appraiser could file a motion to change the appraisal roll to include
correcting an error regarding the unequal appraisal or excessive market
value of a property.

The bill would take immediate effect if finally passed by a two-thirds

record vote of the membership of each house. Otherwise, it would take effect September 1, 2019. The bill would apply only to a motion filed on or after the effective date.

**SUPPORTERS
SAY:**

HB 2159 would grant property owners the ability to use certain methods to change the appraisal roll if given an unequal or excessive appraisal value. One of the most important provisions in the Texas Constitution and state law is the right to be valued equally and uniformly with neighbors and competitors for taxing purposes. Property owners may miss a statutory value appeal deadline for any number of reasons, like traveling for work or the loss of a loved one. The bill would offer up a late protest opportunity if a property owner believed that he or she was entitled to a correction in the appraisal roll for excessive valuation.

HB 2159 would not change the consequences for filing a late appeal, as the owner still would have to pay a late-correction penalty. There still would be a high threshold to prove that the property valuation was excessive and over one-third the actual value. The bill simply would allow all property owners to ensure that their property was valued correctly.

**OPPONENTS
SAY:**

HB 2159 would unnecessarily expand appraisal valuation protest procedures past the normal deadline. This would allow properties to file an appeal after taxing units already had sent out tax bills, making it impossible for local governments to recover losses or predict what those losses would be. Further, property owners could use as proof for a correction the lowest appraised comparable properties, creating a downward spiraling effect on property values. Those that typically take advantage of this late process are large commercial properties, so the bill would not particularly help residential owners. HB 2159 could create significant value losses, causing problems for local taxing jurisdictions.

NOTES:

According to the Legislative Budget Board, passage of the bill would expand the grounds permitted in an error correction motion to include unequal appraisal. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.

SUBJECT: Prohibiting HMOs and PPOs from using extrapolation for auditing claims

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Lucio, Oliverson, G. Bonnen, S. Davis, Julie Johnson, Lambert, C. Turner, Vo

1 nay — Paul

WITNESSES: For — William Lawson, Texas Chiropractic Association; (*Registered, but did not testify*: Daniel Chepkauskas, Patient Choice Coalition of Texas; Marshall Kenderdine, Texas Academy of Family Physicians; Mo Jahadi, Texas Chiropractic Association; Kyle Frazier, Texas Coalition for Quality Patient Care; Clayton Stewart, Texas Medical Association; Sandra Fortenberry, Texas Optometric Association; Tucker Frazier, Texas Pain Society; Bonnie Bruce, Texas Society of Anesthesiologists)

Against — None

On — (*Registered, but did not testify*: Debra Diaz-Lara, Texas Department of Insurance)

BACKGROUND: Insurance Code ch. 843 governs health maintenance organizations, and ch. 1301 governs preferred provider benefit plans.

Observers have noted that some health insurance plans conduct an audit of a provider's most recent claims and then extrapolate the audit's findings across the provider's entire claims history. These plans often will seek recoupment of overpayments based on that extrapolation without further review. Observers suggest this is an unjust burden on providers that should be addressed by ensuring insurance plans seek recoupment only on claims that are overpaid.

DIGEST: HB 2151 would prohibit a health maintenance organization (HMO) or insurer from using extrapolation to complete audits of claims submitted by physicians or providers. Any additional payment due a physician or provider or any refund due an HMO or insurer would have to be based on

the actual overpayment or underpayment and could not be based on an extrapolation.

The bill would define "extrapolation" as a mathematical process or technique used by an HMO or insurer to estimate audit results or findings for a larger batch or group of claims not reviewed by the HMO or insurer.

The bill would not apply to coverage under the state child health plan program or the health benefits plan for children. It also would not apply to the state Medicaid program, including a Medicaid managed care program.

The bill would take effect September 1, 2019, and would apply to the audit of a physician or provider under a contract with an insurer or HMO entered into or renewed on or after that date.

SUBJECT: Modifying bail setting process, using pretrial risk assessment tool

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Collier, Zedler, K. Bell, Hunter, P. King, Moody, Murr
2 nays — J. González, Pacheco

WITNESSES: For — Gerald Yezak, Sheriff’s Association of Texas; Kasey Allen;
(*Registered, but did not testify*: Ricky Allen; Sue Allen; Jimmy Allen;
Lisa Allen)

Against — Jeffrey Clayton, American Bail Coalition; Michael Lozito, and
Michael Young, Bexar County; Randy Adler, Ken Good, Roger Moore,
and Kim Porter, Professional Bondsmen of Texas; Emily Gerrick, Texas
Fair Defense Project; (*Registered, but did not testify*: Nick Hudson,
American Civil Liberties Union of Texas; Michael Byrd, Baail bond;
Deborah Farmer, Bail Bonds; Marshall Kenderdine, Bankers Insurance
Company; Melissa Shannon, Bexar County Commissioners Court; Steven
Sondag, Come and Train It K9; Jerry Sondag, Conroe Insurance Agency;
Latesia Ganos, Discount and A1 Bail Bond; Joe Flack, Financial Casualty
and Surety, Inc.; Gale Lilliman, Gulf Coast Bail Bonds; Ender Reed,
Harris County Commissioners Court; Rene Anzaldua, Hidalgo County
Bail Bond Association; Kathleen Mitchell, Just Liberty; Tammy Stephens,
League City Bail Bonds; Joseph Williams, Lexington National Insurance
Corp.; Steve Cruz, Lone Star Bonding Harris County; John McRae,
McRae Bail Bonds; Michael Oconnor, Rene Ortega, Charlie Pickens,
Charlie Pickens III, and Ray Vaughn, PBT; Blanca Aregullin, Gage
Gandy, and Irene Villarreal, PBTX; David Fregia, John Mccluskey,
Domingo Rodriguez, Sr., James Bear, Ricardo Canales, Claudia Cantu-
Flores, Christopher Embrey, Luis Garcia, Elida Garza, Chad Heck,
Camille Hodnett, Jamal Qaddura, Domingo Rodriguez, Paul Schuder,
Joseph Villareal, Angela Villareal, Michael Whitlock, John Zavala, and
Ramona Salinas, Professional Bondsmen of Texas; Debbie Byrd, Ptbx;
Alexis Tatum, Travis County Commissioners Court; and 48 individuals)

On — Chad Wilbanks, Galveston County Commissioners Court; David

Slayton, Office of Court Administration, Texas Judicial Council; Derek Cohen, Right on Crime; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Mary Mergler, Texas Appleseed; Michael Barba, Texas Catholic Conference of Bishops; Nathan Hecht, Texas Judicial Council; Marc Levin, Texas Public Policy Foundation; Matthew Alsdorf; Doug Deason; Chris Harris; Mollee Westfall; (*Registered, but did not testify*: Justin Keener, Americans for Prosperity, Libre Initiative, Concerned Veterans for America, Doug Deason)

BACKGROUND: Code of Criminal Procedure art. 17.15 establishes rules for setting bail amounts, specifying that the amount of bail is to be governed by the Constitution and by the following rules:

- it must be sufficiently high to give reasonable assurance that the undertaking will be complied with;
- the power to require bail is not to be so used as to make it an instrument of oppression;
- the nature of the offense and the circumstances under which it was committed are to be considered;
- the ability to make bail is to be regarded, and proof may be taken upon this point; and
- the future safety of a victim of the alleged offense and the community shall be considered.

DIGEST: CSHB 2020 would create the Bail Advisory Commission to work with the Office of Court Administration (OCA) to develop a pretrial risk assessment tool to be used when setting bail, modify the statutory rules governing the bail setting process, and restrict the authority to release certain defendants on bail to magistrates with specified qualifications.

The bill would be called the Damon Allen Act.

Bail Advisory Commission. CSHB 2020 would create the Bail Advisory Commission to work with OCA to develop recommendations for a pretrial risk assessment tool to be used by courts when setting bail. The tool would have to be validated and standardized for statewide use and meet certain criteria in the bill. The commission also would develop

recommendations on best practices for personal bond offices.

Membership and operation. The commission would have 11 members:

- three members appointed by the governor, one with law enforcement experience, one with experience as a criminal defense attorney, and one with experience in a prosecutor's office;
- the chair of the Senate Committee on Criminal Justice;
- two senators appointed by the lieutenant governor;
- the chair of the House Committee on Criminal Jurisprudence;
- two House members appointed by the House speaker;
- one member appointed by the chief justice of the Texas Supreme Court; and
- one member appointed by the presiding judge of the Texas Court of Criminal Appeals.

The governor, lieutenant governor, and House speaker would be required to coordinate to ensure that the commission reflected, to the extent possible, the ethnic, racial, and geographic diversity of the state. The governor would designate the presiding officer of the commission.

OCA would have to provide administrative support for the commission, and funds for operations of the commission would have to be provided through an appropriation to OCA.

Development of risk assessment tool. The commission would be required to develop and approve a validated pretrial risk assessment tool that was standardized for statewide use in the bail-setting process.

The tool would have to meet specific criteria, and must:

- be objective, validated for its intended use, and standardized;
- be based on analysis of empirical data and factors relevant to the risk of a defendant failing to appear in court and the safety of the community or the victim of the alleged offense; and
- not consider factors that would disproportionately affect persons who were members of racial or ethnic minority groups or who were

socioeconomically disadvantaged.

Other duties. The commission also would have to:

- develop recommendations on best practices for personal bond offices to use for pretrial services;
- collect and analyze information about pretrial release practices and distribute it to courts, personal bond offices, and other organizations; and
- collect information about defendants released on bail, including the rate of failure to appear and commission of new offenses.

Adoption of tool. The commission would have to report its recommendations by March 1, 2020, to the governor, lieutenant governor, legislators, chief justice of the Supreme Court, presiding judge of the Court of Criminal Appeals, and the Texas Judicial Council.

The Texas Judicial Council would be required to review the report and could recommend to the commission changes to the tool by June 1, 2020. The commission would be required to revise the tool in accordance with any recommendations and prepare another report by August 1, 2020.

By August 31, 2020, the Texas Judicial Council would have to adopt the validated pretrial risk assessment tool, and OCA would have to provide the tool to magistrates at no cost. The tool would have to be available on OCA's website by September 1, 2020.

By January 1, 2023, the commission would have to report on the implementation of the assessment tool and its effect on pretrial recidivism rates and the rates at which defendants failed to appear in court.

The commission would be abolished September 1, 2023.

Use of risk assessment tool, other factors. The bill would require magistrates considering a release on bail for a defendant charged with a class B misdemeanor or higher offense to order the personal bond office or another trained person to use the pretrial risk assessment tool developed under the bill to assess the defendant. The results of the assessment would

have to be given to the magistrate within 48 hours of the defendant's arrest. Magistrates could use the tool to conduct the assessment themselves but could not, without the consent of the sheriff, order a sheriff or sheriff's department personnel to conduct the assessment.

The bill would require magistrates to consider the results of the pretrial risk assessment before making decisions about bail.

The bill would include the pretrial risk assessment tool in the list of considerations that govern the process of setting bail. The bill also would include in the list a defendant's criminal history, including acts of family violence, the future safety of peace officers, and any other relevant fact or circumstance to be considered.

Authority to release on bail. CSHB 2020 would allow only magistrates who met qualifications established in the bill to release on bail defendants charged with felonies or sex offenses and assault offenses that were class B misdemeanors or higher.

Magistrates setting bail for these defendants would have to be residents of one of the counties in which they served and would have to:

- have been an attorney licensed in Texas for at least four years;
- have not been removed from office by impeachment or other specified means; and
- have not resigned from office after being notified of certain formal misconduct or disability proceedings by the State Commission on Judicial Conduct before final disposition of the proceedings.

The establishment of the Bail Advisory Commission would take effect September 1, 2019. Provisions establishing criteria for magistrates making certain bail decisions would apply to persons arrested on or after September 1, 2019.

Other provisions would take effect September 1, 2020, and would apply only to those arrested after that date.

SUPPORTERS

CSHB 2020 would reform the bail-setting process in Texas to improve

SAY: public safety and to make the process more fair. The current system often results in magistrates setting bail amounts that do not reflect the threat that those accused of crimes pose to the public or the likelihood that they will appear in court. The results of these decisions have harmed public safety, been unfair to large numbers of defendants without financial means, and been costly for jails that house those awaiting trial.

The current system has resulted in bail decisions that allow high-risk and dangerous defendants with financial means out on the streets. This has resulted in tragedies such as 2017 killing of Department of Public Safety trooper Damon Allen, for whom the bill would be named. Trooper Allen was shot during a traffic stop by someone who had been released on bail despite being a repeat offender with a violent past.

The current system also keeps many non-violent, low-risk defendants without money in jail before trial. Around three-quarters of those in local jails are awaiting trial, many unnecessarily remaining there because they were assessed bail they could not pay. Defendants who are jailed for low-level offenses but are unable to raise a few hundred dollars for bail illustrate the problem. Pretrial incarceration can have undesirable consequences, including loss of jobs, missed schooling, delinquent bills, family separations, and more.

CSHB 2020 would address these problems and improve the bail-setting process in Texas by giving those setting bail the relevant information to make decisions and by establishing qualifications for magistrates setting bail in the most serious cases. Lawsuits challenging the system in some Texas counties have resulted in changes in those counties, and courts could intervene throughout Texas if statewide changes are not made.

Bail Advisory Commission. The commission that would be created by CSHB 2020 would be broad-based and include members from throughout the criminal justice system. With its expertise, it would be able to develop and adopt an appropriate risk assessment tool and disseminate information to help all areas of the state. Appointments by the governor and others could ensure that any group not named in the bill had representation. The commission could have public meetings in which anyone could give input and could solicit information in other ways, such as work groups.

Pretrial risk assessment. CSHB 2020 would improve bail decisions by giving magistrates full information about those accused of crimes. Currently, bail decisions can be made by magistrates who do not know a defendant's full criminal history or other vital information such as their history of appearing in court or history of violence.

CSHB 2020 would give magistrates a tool that has been shown to help make accurate decisions about these factors. The bill would ensure the assessment tool was fair by requiring that it be objective, validated, and standardized, and prohibiting it from considering factors that would disproportionately affect persons who were members of racial or ethnic minority groups or who were socioeconomically disadvantaged. The tool would be studied to determine if it predicted outcomes accurately and fairly, and it would be revalidated to ensure it remained fair.

CSHB 2020 would not reduce judicial discretion. Bail decisions would continue to be made by magistrates with no decision predetermined. Decisions would be more reasonable and transparent, and public safety would be improved because magistrates would have information from the assessment tool as well as authorization to consider criminal history, family violence, and safety to law enforcement. CSHB 2020 would not eliminate bail schedules.

The bill would require one assessment tool to be used statewide for uniformity and fairness to defendants throughout the state. The tool would be provided free to counties and would be quick and easy to use.

Authority to release on bail. The bill would require that those setting bail in the most serious cases were experienced attorneys with a deep understanding of the law. This would result in more informed decisions that protected public safety and promoted fairness.

OPPONENTS
SAY:

CSHB 2020 would reduce the ability of counties to design their own bail systems and would require the use of a pretrial assessment tool that could have negative effects. The current system works well in many cases to support appropriate bail decisions, and the bill could interfere with procedures some counties have adopted in response to litigation.

Bail Advisory Commission. The commission should include representation from the professional bail industry. The industry is an important part of the criminal justice system and could provide valuable information to the commission and help in its work.

Pretrial risk assessment. The statewide requirement to use a pretrial risk assessment tool could unfairly result in the detention of some defendants who otherwise would be released. Under current practices, some defendants, especially ones accused of non-violent, low-level misdemeanors, might be released automatically under a personal bond that does not require cash. Under the bill, these defendants could be assessed bail and held in jail because they could not pay it. If risk assessments are to be mandated, they should be coupled with a presumption of release on personal bond and support for pretrial services.

By mandating a single tool for use throughout the state, the bill would reduce counties' flexibility. Jurisdictions might prefer another tool that would meet the specified criteria but be tailored to their needs or a better tool than the statewide mandated one could become available.

CSHB 2020 would, in effect, eliminate the ability of a county to use bail schedules, which can be helpful in making appropriate and timely releases from jail. Under a bail schedule, a standing order allows magistrates to set bail based on the factors in the schedule, and this would be precluded if magistrates had to use and consider a risk assessment tool.

Risk assessment tools are unproven, can be unreliable and biased, and can perpetuate or introduce unfair disparities into the bail-setting process. There are no assurances that the assessment mandated by CSHB 2020 would not exacerbate problems with these issues. A better approach would be to ensure that magistrates directly received criminal history and any other information needed to make bail decisions without the information being filtered through a risk assessment.

Authority to release on bail. Restricting who can make bail decisions in certain cases could be burdensome and costly for counties, especially small or rural ones. In some counties, current magistrates would not meet

the qualifications that would be established by the bill and district judges or county court judges could have to step in and make the decisions. This could be difficult to schedule, and it could be hard to find magistrates with the qualifications to hire. In some cases, defendants might have to wait for a qualified magistrate to get to their cases, resulting in longer detentions, which would be harmful to defendants and costly to jails. If these challenges could not be overcome within the required 48-hour window for magistration, counties could face liability for not meeting the deadline.

Under the current system, magistrates are qualified, experienced, and capable to continue making bail decisions, and any concerns about their capabilities could be addressed through additional training.

**OTHER
OPPONENTS
SAY:**

CSHB 2020 would not go far enough in addressing issues raised by courts about systems of bail in Texas that keep in jail those who do not have the means to pay.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$1 million to general revenue related funds through fiscal 2020-21 as well as an annual cost of about \$208,000 in fiscal 2022 and in fiscal 2023.

SUBJECT: Studying a pavement consumption fee for commercial vehicles

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Canales, Bernal, Y. Davis, Goldman, Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

1 nay — Hefner

1 absent — Landgraf

WITNESSES: For — (*Registered, but did not testify*: Matthew Geske, Austin Chamber of Commerce; JJ Rocha, Texas Municipal League; Mackenna Wehmeyer, Texas Rail Advocates; Bill Kelberlau; Ronda McCauley; Wilma Joy Putnam; Terry Putnam)

Against — (*Registered, but did not testify*: Steven Albright, AGC of Texas-Highway Heavy Branch; Michael Stewart, Aggregated Transporters Association of Texas; Randy Cubriel, Nucor; Shana Joyce, Texas Oil and Gas Association)

On — John Esparza, Texas Trucking Association; (*Registered, but did not testify*: Michael Lee, Texas Department of Transportation)

DIGEST: CSHB 3469 would direct the Texas Department of Transportation (TxDOT), in consultation with the University of Texas Center for Transportation Research and the Texas A&M Transportation Institute, to study the feasibility of a pavement consumption fee for commercial vehicles.

The study would consider the feasibility of charging a pavement consumption fee in the amount of the reasonable cost to repair damage to the pavement of highways caused by the normal operation of commercial motor vehicles engaged in interstate or international commerce that were required by federal law to use an electronic logging device.

The study also would identify and consider adjusting or eliminating

registration or permit fees imposed on commercial motor vehicles that were wholly or partly used to pay for highway maintenance should a pavement consumption fee be adopted.

In conducting the study, TxDOT would be required to develop a system to:

- determine the governmental entity responsible for the maintenance of each section of a highway on which a commercial vehicle subject to the pavement consumption fee was operated;
- establish fee rates that would reflect the cost per mile to repair damage to highways subject to the fee caused by the normal operation of commercial vehicles subject to the fee; and
- calculate the total amount of the fee due for a reporting period from the operator of a commercial motor vehicle subject to the fee.

TxDOT would be required to develop a prototype of any software required for the system.

TxDOT would recommend rules for the administration, collection, and enforcement of the fee and the distribution of the fee to governmental entities responsible for the maintenance of highways to which the fee would be applied.

TxDOT would be required to submit the study, including policy and legislative recommendations, to the governor, lieutenant governor, and the Legislature by November 1, 2020. The bill's provisions would expire May 1, 2020.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSHB 3469 would provide the information necessary for the Legislature to consider implementing a pavement consumption fee. Such a fee could be a transparent and proportional way to charge commercial vehicles for their share of highway maintenance by taking into account the characteristics of sections of highway and the characteristics of trucks, including weight and weight distribution. Considering these characteristics would address concerns regarding the highway usage fees

in other states, which had levied a flat per-mile fee.

Part of the study's purpose would be to address concerns about electronic logging devices (ELDs). The study could identify ways to offset the cost of equipping ELDs, other sources of necessary data, or the appropriateness of a state-level requirement.

**OPPONENTS
SAY:**

CSHB 3469 could lead to the establishment of pavement consumption fee that could be an unfair burden on the trucking industry. Pavement consumption fees in other states had constituted a flat fee on miles traveled and have not taken into account differences between sections of highway and vehicles.

**OTHER
OPPONENTS
SAY:**

Pavement consumption fees should not be based off electronic logging devices (ELD). A pavement consumption fee based on ELD data would not capture a large portion of trucks because many trucks are exempt from the federal requirement. Furthermore, ELDs track trucks, not operators. In many cases trucks are operated by multiple entities, which could make it difficult to accurately and fairly assign fees.

NOTES:

According to the Legislative Budget Board, because the specific information technology requirements that would be necessary to implement the bill are unknown, the potential cost to the state cannot be determined at this time.

SUBJECT: Expanding statutory definition of neighborhood electric vehicles

COMMITTEE: Transportation — favorable, without amendment

VOTE: 12 ayes — Canales, Landgraf, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Martinez, Raney, Thierry, E. Thompson

0 nays

1 absent — Ortega

WITNESSES: For — Walid Mourtada and Colin Sommer, eTuk USA; Amanda Miller; (*Registered, but did not testify:* Eddie Solis, Abilene Chamber of Commerce; Melissa Shannon, Bexar County Commissioners Court; Randy Lee, eTuk USA; Ashley Harris, Visit San Antonio)

Against — None

BACKGROUND: Transportation Code 551.301 defines "neighborhood electric vehicle" as a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with Federal Motor Vehicle Safety Standard No. 500 (49 CFR sec. 571.500).

Suggestions have been made to revise the types of vehicles classified as neighborhood electric vehicles in law to keep up with growing nontraditional transportation options.

DIGEST: HB 2163 would expand the statutory definition of "neighborhood electric vehicle" to include electric vehicles that complied with Federal Motor Vehicle Safety Standards applicable to motorcycles that had at least three wheels in contact with the ground or complied with federal regulations for low-speed vehicles.

The bill would take effect September 1, 2019.

SUBJECT: Regulating insurers who engage in certain prohibited conduct

COMMITTEE: Pensions, Investments, and Financial Services — favorable, without amendment

VOTE: 8 ayes — Murphy, Capriglione, Flynn, Gervin-Hawkins, Lambert, Leach, Stephenson, Wu

0 nays

3 absent — Vo, Gutierrez, Longoria

WITNESSES: For — Daniel Chepkas, Patient Choice Coalition of Texas; Bobby Hillert, Texas Orthopaedic Association (*Registered, but did not testify*; Eric Woome, Texas Ambulatory Surgical Center Society; Christine Mojezati, Texas Medical Association)

Against — (*Registered, but did not testify*: Jason Baxter, Texas Association of Health Plans)

On — (*Registered, but did not testify*: Katrina Daniel and Brian Guthrie, Teacher Retirement System)

DIGEST: HB 2367 would prohibit an insurance carrier from submitting a bid under the Texas Employees Group Benefits Act for two competitive bidding cycles if the Employees Retirement System of Texas board of trustees found that the carrier had terminated a contract with a physician or provider for the provision of services solely because the physician or provider informed an enrollee in a health benefit plan offered or administered by the carrier of the full range of physicians and providers available to the enrollee, including out-of-network providers.

A health care provider would be prohibited from submitting a bid under the Texas Public School Retired Employees Group Benefits Act for two competitive bidding cycles if the Teacher Retirement System of Texas found that the health care provider had terminated a contract with a physician or provider for provision of services solely because the

physician or provider informed an enrollee in a health benefit plan offered or administered by the health care provider of the full range of physicians and providers available to the enrollee, including out-of-network providers.

A health care or benefit provider would be prohibited from submitting a bid under the Texas School Employees Uniform Group Health Coverage Act for two competitive bidding cycles if the Teacher Retirement System of Texas found that the health care or benefit provider had terminated a contract with a physician or provider for the provision of services solely because the physician or provider informed an enrollee in a health coverage plan offered or administered by the health care or benefit provider of the full range of physicians and providers available to the enrollee, including out-of-network providers.

The bill would take effect September 1, 2019.